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DDES-BQA Memo 06-006  
Supersedes memo 06-002

**To:** Hospitals

Hosp 04

**From:** Otis Woods  
Director

Variance of Chapter HFS 124, Wisconsin Administrative Code:  
Authentication of Physician Orders

This memo supersedes DDES-BQA-06-002, issued February 2, 2006. The variance granted in DDES-BQA-06-002 is revoked and replaced by the variance in this memo, which clarifies the Department's position on authentication of physician orders in hospitals and further aligns the state requirements with federal Medicare regulations.

History

DSL-BQA-05-010 updated the Department of Health and Family Services' (DHFS) memo and statewide variance previously described in DSL-BQA-00-015. The State rule governing physician authentication, section HFS 124.12(5)(b)11, Wisconsin Administrative Code HFS124.12(5)(b)11), states that:

"Medical staff by-laws and rules shall include...a statement specifying categories of personnel duly authorized to accept and implement medical staff orders. All orders shall be recorded and authenticated. All verbal and telephone orders shall be authenticated by the prescribing member of the medical staff in writing within 24 hours of receipt."

On September 4, 1998, the Department issued DSL-BQA-98-050, which extended the requirement for physician authentication from 24 hours to 72 hours. DSL-BQA-00-015, issued February 1, 2000, further revised the statewide variance of HFS 124.12(5)(b)11. That variance stated that hospitals could:

- Continue to comply with the existing statewide variance granted September 4, 1998; or
- Could choose to comply with alternative measures, which required authentication "promptly," if the hospital also implemented quality improvement strategies with the active participation of the medical staff to reduce medical errors.

Subsequent to the issuance of these variances, the federal Centers for Medicare and Medicaid Services (CMS) implemented two changes affecting both authentication of orders and hospital participation in quality improvement programs. First, CMS promulgated 42 CFR 482.21, establishing a new Condition of Participation for all hospitals that participate in Medicare: Quality Assessment and Performance Improvement (QAPI). QAPI includes and expands the goals of medical error reduction that were addressed in the variance issued in DSL-BQA-00-015. Second, CMS altered the federal Interpretive Guidelines for 42 CFR 482.23(c)(2)(ii), which requires that all orders for drugs and biologicals must be signed by the prescribing practitioner as soon as possible. The new federal guidelines define “as soon as possible” as follows:

"As soon as possible would be the **earlier** of the following:

- The next time the prescribing practitioner provides care to the patient, assesses the patient, or documents information in the patient’s medical record,
- The prescribing practitioner signs or initials the verbal order within time frames consistent with Federal and State law or regulation and hospital policy, or
- Within 48 hours of when the order was given.”

As a matter of public policy, DHFS does not intend to have rules, rule interpretations, variances, or waivers that, if implemented, would put a hospital out of compliance with Medicare regulations. Therefore, the previous variances allowing either (1) 72 hours, or (2) an unspecified period with adherence to quality improvement criteria to elapse before orders are authenticated, are hereby revoked. However, the 24-hour time frame in HFS 124.12(5)(b)11 continues to be recognized as more stringent than necessary for patient protection.

DDES-BQA-06-002 addressed the discrepancy between state and federal regulations that existed in DSL-BQA-00-015 by creating a variance of HFS 124.12(5)(b)11 that altered the time frame for authentication in writing of all verbal and telephone orders to within 48 hours of receipt. The change now being implemented is that, similar to Medicare requirements, only orders for drugs and biologicals must be authenticated within 48 hours. Other medical orders must be authenticated promptly.

#### Current Variance:

The current statewide variance of the State rule governing physician authentication found at section HFS 124.12(5)(b)11, Wisconsin Administrative Code, effective immediately, is:

“Medical staff by-laws and rules shall include...a statement specifying categories of personnel duly authorized to accept and implement medical staff orders. All orders shall be recorded and authenticated. All verbal and telephone orders for drugs and biologicals shall be authenticated by the prescribing member of the medical staff in writing within **48** hours of receipt.”

A condition of the variance is that hospitals develop and implement policies and procedures approved by the medical staff for prompt authentication of verbal and telephone orders that do not involve drugs and biologicals.

Please note that HFS 124.12(5)(b)11 applies to inpatient orders. BQA is retaining the previous State interpretation of this provision as it concerns authentication by physicians other than the prescribing physician, as follows: The hospital may develop medical staff by-laws and hospital policies delineating circumstances under which a physician, who is a member of the medical staff, may sign verbal or telephone orders, as well as the histories and physicals done by other physicians who are members of the medical staff. This is done with the understanding that the signing physician is then professionally and legally responsible for the treatments and medications prescribed under the orders, as well as the diagnostics on which the orders are based.

Federal standards for authentication of orders include 42 CFR 482.23(c)(2), 42 CFR 482.24(c)(1), and the Interpretive Guidelines for those regulations.

Any questions regarding this memo may be directed to the Bureau of Quality Assurance, Health Services Section, at (608) 243-2024, or the Bureau Director, Otis Woods, at (608) 267-7185.